

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SECURITY PEOPLE, INC.,
Plaintiff,
v.
MICHELLE K. LEE, et al.,
Defendants.

Case No. 15-cv-03172-HSG

**ORDER GRANTING MOTIONS TO
DISMISS WITH PREJUDICE**

Re: Dkt. Nos. 16, 22

Plaintiff Security People, Inc. filed this lawsuit on July 8, 2015 against Michelle K. Lee, in her capacity as Director of the United States Patent and Trademark Office, the United States Patent and Trademark Office (“PTO”), and Ojmar US, LLC (collectively, “Defendants”). Dkt. No. 1. The lawsuit alleges a single count positing the unconstitutionality of 35 U.S.C. §§ 311-19, contending that the PTAB’s *inter partes* review proceedings violate Article III separation of powers principles and the right to have patent validity issues determined by a jury.


In light of the Federal Circuit’s recent decision in *MCM Portfolio LLC v. Hewlett-Packard Co.*, 812 F.3d 1284 (Fed. Cir. 2015), the Court GRANTS the motions to dismiss. *MCM Portfolio* squarely rejected the argument that *inter partes* review violates Article III. *See id.* at 1292. The decision further held that “[b]ecause patent rights are public rights, and their validity susceptible to review by an administrative agency, the Seventh Amendment poses no barrier to agency adjudication without a jury.” *Id.* at 1293.

Finding that the complaint fails to state a cognizable claim to relief and that further amendment of the pleadings would be futile, the Court GRANTS the motion to dismiss with prejudice. *See Shroyer v. New Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1041 (9th Cir. 2010) (holding dismissal is appropriate where “where there is no cognizable legal theory” (internal quotation marks omitted)). The Clerk is directed to enter judgment in favor of Defendants and

close the file.

IT IS SO ORDERED.

Dated: 3/25/2016


HAYWOOD S. GILLIAM, JR.
United States District Judge

United States District Court
Northern District of California